

REMARKS

Claims 1–4 were rejected under 35 U.S.C. 102(b) as being anticipated by White (U.S. Patent #5,237,520). This rejection is respectfully traversed.

While White does disclose the use of a scanner for obtaining data for a foot, White does not disclose a patient standing normally [step (a) of claim 1] while scanning a foot.

White discloses: “In particular, lighter shades of gray have been assigned to the bottoms of the toes and heel which are under higher pressure due to the weight of the owner of the foot than the surrounding areas which are also touching the scanner 134 surface.” (Col. 6 line 45.) White’s specification does not enable one to duplicate the invention as no indication of how the weight is to be applied was detailed.

In addition, White does not disclose using the measurements, observations, and color differences from the scan and computer to obtain the measurements necessary for constructing *corrective* footwear [claim 1 step (b), claim 4 step (c)].

White mentions arch supports and “fit aids.” He also discloses custom footwear for a particular customer. However, *custom* should not be confused for *corrective*. Custom footwear should be more comfortable for a wearer than off-the-shelf footwear, but custom footwear that is not also *corrective* footwear does nothing to correct for foot abnormalities and much of the resulting discomfort. White does not disclose the construction of corrective footwear.

In particular, in the *Field of the Invention* section, we find: “This system thereby enables more accurate and efficient production of footwear and lasts for the general public consumption.” This is counter to the invention disclosed in the present application. It would be absurd to consider providing *corrective* footwear for “general public consumption,” as corrective footwear, by definition, must be constructed specifically for a particular client.

Moreover, the measured data extracted from a foot scan (see measurements 1–17 on page 6 of the instant application) to produce corrective orthotics and footwear are necessarily different from those needed for custom footwear, produced only for comfort, not correction.

Claim 4 is currently amended to specify, within the steps of the claim, that measurements are taken for the purpose of constructing corrective orthotics and footwear.

As it is evident that White did not anticipate steps (a) or (b) of claim 1, nor step (c) of amended claim 4, it is believed independent claims 1 and 4 are allowable. Claims 2 and 3, depending on claim 1, are expected also to be allowable as claim 1 is believed to be allowable.

For the above reasons, the Applicant is of the opinion that all claims 1-4 are now allowable, and a notice to that effect is earnestly solicited.

Respectfully submitted,

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